

TITLE 3: HUMAN RESOURCES
DIVISION 5: PUBLIC SAFETY

§ 5141. Title.

This article shall be known as the Commonwealth Oil Spill and Hazardous Materials Accident Responder Act.

Source: PL 9-49, § 3.

Commission Comment: PL 9-49 took effect September 5, 1995. According to 9-49, §§ 1 and 2:

Section 1. Legislative Findings. Rapid response and immediate and decisive action are critical when a spill or other similar discharge of oil or hazardous material occurs, for effective removal or containment, just as in response to a natural disaster such as fire, typhoon or earthquake. In any of these circumstances responders must take immediate action based on very limited information, attacking the problem quickly if there is to be any realistic chance of mitigating the worst harm. Limited immunity for firefighters has long been recognized because of these circumstances, and this Act extends similar protection to oil discharge and hazardous material accident responders. Without similar immunity, the enormous financial risks and liability exposures associated with oil discharge and hazardous material accidents response will deter those persons who are not responsible for the initial incident, such as cleanup contractors, fishermen and barge owners, from prompt aggressive cleanup, or from any response at all. The liability for damages resulting from the oil discharge or hazardous material clean-up efforts falls on the party responsible for the initial discharge, not on the persons trying to help clean up or mitigate the damage.

Section 2. Legislative Intent. It is the intention of the Legislature to make Commonwealth law consistent with new Federal oil and hazardous materials discharge legislation that provides limited immunity from liability for removal costs and damages for those persons responding to an oil discharge, hazardous waste accident or threat of any such occurrence. The immunity applies if those activities are performed in a manner consistent with the Area Contingency Plan (ACP) and the National Contingency Plan or at the direction of the State (CNMI) On-Scene Coordinator or the Federal On-Scene Coordinator (United States Coast Guard). Since prompt and decisive action is often critical to the success of efforts to prevent or clean up an oil discharge or hazardous materials accident, actions which are substantially consistent with established plans or at the direction of the State (CNMI) On-Scene Coordinator or Federal On-Scene Coordinator are deemed to fall within the scope of this Act. In addition, immunity for responders is limited. It does not extend to actions for personal injury or wrongful death, or for actions that rise to the level of gross negligence or willful misconduct. It is further the intention of the Legislature that victims of oil discharge and hazardous materials damage have a means of compensation. They may recover from the person responsible for the initial discharge or, where the responsible party is unidentified or unable to pay, from the Federal Oil Pollution Fund and any other applicable laws of the Commonwealth.